



Reduction In Force

Review of the Basics

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Objectives

Discuss and review:

- RIF Policy/Plan
- RIF Processes
- Priority Verification/Referral System
- RIF Resources

During this session, we won't:

- Create RIF experts
- Answer all your RIF questions
- Make unpopular policies vanish

Relevant Laws

- G. S. 126 – 7.1
 - Priority
 - Notification
- Session Law 2009-451, Section 26.14D (add'l 12 months for those notified 7/1/09 – 6/30/11)
- Section 9.3 of Senate Bill 1202 (add'l 12 months for those notified 5/1/09 – 6/30/09)

Relevant Laws, cont'd

- G. S. 126-8.5
 - Severance Pay
 - Discontinued Service Retirement
- G. S. 135-45.2(a)(8)
 - 12 month continuation of employee health insurance

RIF Policy vs RIF Plan

- Differences
- Required components
- Approvals

RIF Policy

- Overarching agency/university specific document for implementing a reduction in force;
- Documents established factors to use when making reduction in force decisions;
- Openly available to employees;
- On file at OSP as public record
- OSP approval not required

RIF Policy Components

RIF Factors

- Type of appointment
- Relative efficiency
- Adverse impact
- Length of service

Veterans Priority

- Up to 5 years toward total state service

RIF Policy Components, cont'd

30 day written notification (minimum)

Notification specifics

- Benefits eligibility
- Appeal rights

Appeals

- Retaliation for unlawful discrimination
- Denial of veterans preference

RIF Plan

- Action steps and decisions for a specific RIF situation

Why – When - How

RIF Plan, cont'd

Includes information on:

- what the agency did to avoid the RIF
- how the RIF factors were applied
- identifies the specific work units and employees to be affected by this specific RIF
- adverse impact analysis
- agency head approval

OSP approval not required

EEO Considerations and RIF

Adverse Impact

- Substantially different rate of selection which works to the disadvantage of employees based on race, sex, ethnicity, or age (40+)
- Rate of selection determined using the four-fifths (4/5ths) or 80% rule
- This rule is not intended to resolve the ultimate question of unlawful discrimination

EEO Considerations and RIF, cont'd

Americans with Disabilities Act (ADA)

- Within RIF policy, employer cannot penalize individuals with disabilities for accommodations provided under the ADA.
- Within priority reemployment policy, the employee is entitled to reasonable accommodations to perform essential functions of job.

EEO Considerations and RIF, cont'd

Federal Discrimination Law

- In addition to appeals to OAH, an employee may file a discrimination claim based on federal discrimination law:
 - Civil Rights Act
 - Americans with Disabilities Act (and Amendments Act)
 - Age Discrimination in Employment Act

Notification

- Must be in writing
- Minimum of 30 calendar days
- Reasons for RIF
- Expected Date of Separation
- Additional material on priority, other aspects of RIF separation (benefits continuation, leave balances, etc)
- Include OSP RIF Website
(www.osp.state.nc.us/RIF)

Priority Defined

- Must have career status to have RIF priority
- GS 126-7.1 gives 12 months from date of official written notification
 - (see budget provisions for current timeframes, slide #4)
- Priority over outside applicants
- No RIF priority to Exempt policy making/managerial jobs

Priority Defined, cont'd

- Have priority to positions at the same grade/salary grade equivalency/competency level (or below)
- Apply during open application period
- Must be interviewed if meet minimum qualifications for position & could perform tasks w/normal orientation and training
- RIF candidate with 10 yrs service has priority over RIF candidate with less than 10 yrs service

Priority Satisfied

RIF employee obtains a position with the:

- Same salary grade/SG equivalency or competency level, and
- Same salary rate, and
- Same appointment type

Priority Continues

Accepts a position:

- at a lower salary grade/SG equivalent/competency level, salary rate, or appt type
- outside state government
- that is not SPA
- that is temporary
- through a contractual arrangement (universities only)

Priority Terminated

- Accepts offer – equal or better
- Declines interview – equal or better
- Declines offer that satisfies priority
- RIF priority period ends

Agency Responsibilities

- Develop RIF Policy
- Explore measures to avoid RIF
- Develop RIF Plan according to parameters of RIF policy
- Implement RIF Plan
- Document RIF decisions

Agency Responsibilities, cont'd

- Notify employees of RIF decision
- Meet with employees to discuss RIF
- Work with employees to help define possible job opportunities
- Respond to questions/concerns of RIF employees, including after the employees have separated
- Refer employees to resources (ESC, Commerce/Workforce Development, OSP RIF webpage)

Agency Responsibilities, cont'd

- Submit information regarding employees notified of RIF to OSP using Priority Verification List (send to: rif.list@osp.nc.gov)
- Notify OSP of transfers/rehires
- Notify OSP of refusal of interview or job offer
 - (email notifications to:
RIF.mail@osp.nc.gov)

OSP Responsibilities

- Provide technical assistance and advice to HR professionals
- Maintain Priority Verification and Referral system
- Provide information/assistance to RIF employees via OSP RIF website
- Maintain contact and coordinate with other entities that provide assistance (ESC, Workforce Development, etc)

Employee Responsibilities

- Work with home agency/university and ESC in job search, utilizing other resources including OSP RIF website
- Review vacancy listings
- Apply for openings

Appeals

- Retaliated against for protesting illegal discrimination
- Failed to receive veterans' preference in RIF separation
- Denied priority in selection process
- . . .
- Also, whatever rights internal A/U grievance procedure provides

Severance Salary Continuation/ Discontinued Service Retirement (DSR)

- A/U make recommendation
- OSP reviews calculations & forwards to Office of State Budget & Management (OSBM)
- OSBM is approving authority

Severance Salary Continuation

- Bridge to other employment
- State Budget has final approval
- Calculation based on service with age adjustment factor (AAF)
- AAF can not exceed service amount
- Minimum 2 weeks based on service
- Maximum 4 months based on service

Severance Salary Continuation, Cont'd

Available to:

- Permanent, full-time/part-time
- Exempt policy-making/managerial
- Trainee >6 mos. service
- Persons on workers' comp or short term disability

Severance workflow at OSP

In PMIS:

- Separation action comes to OSP
- OSP checks severance calculation for any promotional increase in last 12 months
- State Personnel Director reviews
- Documentation delivered to OSBM

Severance workflow at OSP, cont'd

In BEACON:

- PCR comes to OSP
- OSP checks salary/information
- State Personnel Director reviews
- Documentation delivered to OSBM

[NOTE: OSP is not able to check severance calculation in Beacon]

Severance workflow at OSBM

State Budget & Management:

- Checks for SPA status
- Checks that position is abolished
- Checks source of funds and confirms that funds are available
- Checks for eligibility

Severance workflow at OSBM, cont'd

State Budget & Management

- Confirms with A/U that there are no existing State agency vacancies at the A/U or within the 35-mile radius for which the employee is qualified.
- If approved, returns documentation to OSP
 - employee separation form approved in PMIS
 - or
 - OSP notes approval in BEACON

RIF Verification Processes & Procedures

- RIF applicants to apply directly to A/U vacancies
- State Employment Application (PD 107) includes a “RIF priority check box”.
- A/U do not have to check for RIF candidates at time of posting
- A/U will verify RIF Priority status via OSP secure website (password protected)

RIF Verification

Processes & Procedures, cont'd

OSP does not:

- use PMIS for RIF referral (pmreg, pmrif)
- collect and send applications
- send RIF registers

RIF applicants do not:

- “sign up” for priority or referral assistance

RIF Verification

Processes & Procedures, cont'd

RIF Priority Verification List

- Provides information in order for A/U HR staff to quickly determine priority status
- A/U send data to OSP when employees are notified of RIF
- OSP updates & maintains the list

RIF Verification

Processes & Procedures, cont'd

If receive an employment application from a candidate indicating “RIF”:

1. HR staff logs in to the secure RIF Priority Verification List and search for the applicant
2. If the applicant's name is on the list they have RIF priority; however, it is the A/U responsibility to determine if the applicant has priority for their specific vacancy

RIF Verification

Processes & Procedures, cont'd

3. If the applicant's name is not on the list, verify RIF status with parent agency/university
4. If the A/U determines the applicant has priority - proceed according to policy
5. If the A/U determines the applicant does not have priority - proceed according to policy

Please remember:

- Very stressful time for employees, managers, and HR staff
- Be mindful of how you would like to be treated
- Respond to questions/concerns of your RIF employees, even after they have separated from employment
- Ensure HR staff aware of RIF priorities/processes when have opportunity to hire

RIF Resources & Tools

Resources and tools continue to be updated on the
OSP RIF website

www.osp.state.nc.us/RIF

RIF Contacts at OSP

- OSP RIF Team
 - (OSP RIF website – HR Professionals tab)